

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

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COOPER-BOOTH TRANSPORTATION	:	
COMPANY, L.P.,	:	
	:	
Plaintiff,	:	
	:	
v.	:	No. 5:17-cv-3884
	:	
DAIMLER TRUCKS OF	:	
NORTH AMERICA, LLC, and	:	
DETROIT DIESEL CORPORATION,	:	
	:	
Defendants.	:	

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**O R D E R**

**AND NOW**, this 23<sup>rd</sup> day of April, 2018, upon consideration of Defendant Detroit Diesel Corporation's Motion to Dismiss, ECF No. 12, Defendant Daimler Trucks of North America, LLC's Motion to Dismiss, ECF No. 13, Plaintiff's Responses in Opposition, ECF Nos. 16-17, Defendants' Reply Briefs in Support, ECF Nos. 18-19, and Plaintiff's Sur-Replies in Opposition, ECF Nos. 23-24, and for the reasons expressed in the Opinion issued this date, **IT IS ORDERED THAT:**

1. Defendants' Motions to Dismiss are **GRANTED IN PART** with respect to Counts Two and Three of Plaintiff's Complaint and **DENIED IN PART** with respect to Count One of Plaintiff's Complaint.
2. Count Two of Plaintiff's Complaint, for breach of implied warranties, is **DISMISSED with prejudice**.
3. Count Three of Plaintiffs' Complaint, for breach of contract, is **DISMISSED without prejudice**.

BY THE COURT:

/s/ Joseph F. Leeson, Jr.  
JOSEPH F. LEESON, JR.  
United States District Judge